



Report of the Adjudicator

Complaint number	#62091
Cited WASPA members	Audiencenest PTE LTD (2083)
Notifiable WASPA members	Not applicable.
Source of the complaint	WASPA Compliance Department
Complaint short description	Auto-subscription of subscription services
Date complaint lodged	2026-03-17
Date of alleged breach	2026-03-11 and 2026-03-12
Applicable version of the Code	17.4
Clauses of the Code cited	4.2; 4.11; 5.4; 5.5; 12.1 read with 8.9; 15.8B; 15.9; 15.10; 23A.5
Related complaints considered	#62005 and #61079
Fines imposed	R10 000.00 for the breach of clause 4.2 of the Code; R10 000.00 for the breach of clause 4.11 of the Code;

	R10 000.00 for the breach of clause 5.5 of the Code; R10 000.00 for the breach of clause 12.1 read with clause 8.9 of the Code; R10 000.00 for the breach of clause 15.8B of the Code; R10 000.00 for the breach of clause 15.9 of the Code; and R10 000.00 for the breach of clauses 15.10 and 23A.5 of the Code.
Other sanctions	1. WASPA must inform all networks, including MTN, not to process any subscription requests emanating from the Member's service for a period of three (3) months from the date of publication of this Adjudication. 2. All current subscribers to the Member's service as a result of the auto-subscription must be unsubscribed with immediate effect. 3. The Member's service must be terminated with immediate effect and may only be reactivated after the expiry of the three (3) month period, and only once the Member has demonstrated to the satisfaction of the WASPA that the identified breaches of the Code have been fully remedied. 4. Prior to any reactivation of the Member's service, the Member is directed to provide WASPA with written confirmation of the fraud-prevention and compliance measures implemented to prevent future unauthorised auto-subscriptions. 5. The Member is directed to reimburse all auto-subscription fees charged to consumers who were subscribed to its service as a result of the non-compliant acquisition flow. 6. The Member is directed to provide WASPA, within ten (10) days of the publication of this Adjudication, with written confirmation, together with supporting evidence, of all unsubscriptions that have been effected.
Is this report notable?	Not notable.
Summary of	Not applicable.

Initial complaint

Annexure A

1. Whilst monitoring, testing services, and conducting compliance checks of test results, the WASPA Compliance Department ("the Complainant") identified a service on the MTN network which did not comply with the requirements as set out in the WASPA Code of Conduct ("the Code").
2. On or about 2026-03-11, the Complainant's tester ("the Tester") accessed the Google Play Store and downloaded and installed the application titled "Now Junk Cleaner". Shortly after installation, the Tester received a Welcome Message confirming that the Tester had been subscribed to the "Trravl VOD" subscription service, charged at R25.00 per week ("the Member's service").
3. It is alleged that the Member's service was activated through an auto-subscription mechanism. The Tester did not engage with any promotional material, landing page, or network hosted confirmation page. Instead, the Tester was allegedly subscribed without explicit consent or knowledge, thereby bypassing the normal subscription acquisition flow required by both the Code and the MTN network.

Annexure B

4. On or about 2026-03-12, the Complainant's tester ("the Tester") accessed the Google Play Store and downloaded and installed the application titled "Junk Cleaner Pro".
 5. Shortly after installation, the Tester received a Welcome Message confirming that the Tester had been subscribed to the Member's service.
 6. It is alleged that the Member's service was activated through an auto-subscription mechanism. The Tester did not engage with any promotional material, landing page, or network-hosted confirmation page. Instead, the Tester was allegedly subscribed without explicit consent or knowledge, thereby bypassing the normal subscription acquisition flow required by both the Code and the MTN network.
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Member's response

7. The Member stated that, following receipt of the complaint, all promotional activities relating to the service had been stopped. The Member further indicated that all traffic sources had been informed accordingly.
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Complainant's response

8. The Complainant noted that the Member had stopped all promotional activities and had informed all traffic sources. However, the Complainant stated that the Member had not demonstrated that adequate preventative or fraud-prevention mechanisms had been in place prior to the breaches identified. The Member's actions were described as reactive, taken only after the testing of the service.
 9. The Complainant emphasised that the Code required proactive monitoring and controls to prevent fraudulent activity before it reached consumers. By failing to substantiate appropriate safeguards, the Member had not demonstrated compliance with the Code or assurance that the risks had been mitigated. The Complainant concluded that halting promotional activities after the fact did not absolve liability and that the Member's service had been in breach of several clauses of the Code on the date of testing.
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Member's further response

10. The Member stated that remedial steps had been taken as soon as they became aware of the situation. They indicated that the traffic source responsible had been blocked without compensation and that all previous sources had been blocked while further clarity was sought. The Member explained that they had unsubscribed all affected users and ensured that the fraudulent source was not remunerated.
 11. The Member further noted that MTN's fraud detection system had missed the activity, but Evina had detected it. They emphasised that awareness about the sensitivity of the service had been given to all promotional sources before campaigns commenced. The Member concluded that, going forward, new sources would be required to provide clarity and assurances to prevent similar incidents.
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Sections of the Code considered

12. The following clauses of the Code are considered herein:

4.2. Members must at all times conduct themselves in a professional manner in their dealings with the public, customers, other service providers and WASPA.

4.11. Members must take reasonable steps to prevent their networks and systems from being used in a fraudulent manner, and must comply with WASPA's published best practices for fraud prevention.

5.4. Members must have honest and fair dealings with their customers.

5.5. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

8.9. A "call-to-action" is any link, input box, short-code, or any other component of an advert which triggers the confirmation step for a transaction or a service. In the case where a mobile network operator provides a two-stage confirmation process for the service, the first page of this confirmation process may be considered to be the call-to-action.

12.1. For any web page, pricing information must be displayed for premium-rated services or when a mobile network operator prescribes specific advice of charge requirements. For these services, where there is a call-to-action, pricing information must be clearly and prominently displayed adjacent to the call-to-action.

15.8B. A customer must not be subscribed to any subscription or notification service without completing a confirmation step.

15.9. The confirmation step for any subscription service must require an explicit response from the customer of that service. The confirmation step may not be performed in an automated manner in such a way that the process is hidden from the customer.

15.10. For all subscription services initiated via a web page, there must be an additional specific confirmation step before the customer is billed. This confirmation step must be provided in one of three ways:

- (i) The customer's mobile carrier may implement the confirmation step.*
- (ii) The member can provide the customer with a "confirmation page".*
- (iii) The member can send a "confirmation message" to the customer. The customer must not be charged for the confirmation message.*

23A.5. Subscription services must have a landing page prior to the confirmation step. An advert for a subscription service may not send a customer directly to a confirmation page but must link the customer to a landing page for the service. A landing page:

- (a) must clearly show the pricing information for the service;*
- (b) must contain a link to, or the URL of, the Ts&Cs for the service;*
- (c) must use only "subscribe" or "join" as the call-to-action, and may include additional words following "subscribe" or "join" which are not considered to be "intervening text" for the purpose of displaying pricing information;*
- (d) must not mislead by presenting examples of content not available as part of the service;*

- (e) must state the name of the service; and*
(f) must include a description that makes the nature of the service clear to the customer.
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Decision

Clauses 4.2; 4.11; 5.5; 12.1 read with 8.9; 15.8B; 15.9; 15.10; and 23A.5

13. The Member does not deny that the conduct complained of is non-compliant with the Code and has acknowledged the breaches of the Code in its submissions. The Complainant has provided evidence demonstrating that consumers were auto-subscribed to the service without the required consent or confirmation steps, and that the prescribed subscription acquisition flow was bypassed on the MTN network. These findings are not disputed by the Member and are hereby accepted as fact.
14. The confirmed auto-subscription of consumers without consent constitutes direct breaches of clauses 5.5, 15.8B, 15.9, 15.10, 12.1, and 23A.5 of the Code. Consumers were subscribed and billed without completing any confirmation step, without being presented with pricing information, and without being directed to a compliant landing page prior to subscription.
15. In the absence of any call-to-action triggering a confirmation step, clause 12.1 read with clause 8.9 is also breached. The failure to detect or prevent the auto-subscription activity further constitutes non-compliance with clauses 4.11 and 4.2, as the Member did not take reasonable steps to prevent the misuse of its systems and did not conduct its operations in a manner consistent with the consumer-protection standards required by the Code.

Clause 5.4

16. In WASPA Appeal Panel decision #61079, the Appeal Panel confirmed that clause 5.4 is a generalist provision that should only be applied where a member's conduct breaches the Code and no other specific clause adequately addresses that conduct. The panel specifically held: "Moreover, when the Member's conduct is addressed by a clause other than clause 5.4, adjudicators should avoid finding that the Member also breached clause 5.4, as such a finding would amount to the imposition of a double penalty for the same conduct. Therefore, clause 5.4 cannot be used as a "catch-all" clause in these circumstances and is inapplicable.

Conclusion

17. In conclusion, the Member is in breach of the following clauses of the Code: 4.2; 4.11; 5.5; 12.1 read with 8.9; 15.8B; 15.9; 15.10; and 23A.5.
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Sanctions

Mitigating Factors

18. This is the Member's first formal complaint, with no prior record of adverse findings under the Code. This is treated as a mitigating factor when deciding the appropriate sanction.

Aggravating Factors

19. Notwithstanding the mitigating factors identified, it is noted that the non-compliance involves the unauthorised auto-subscription of consumers, which is regarded as a serious contravention of the Code. Auto-subscription practices undermine informed consumer consent and expose consumers to recurring charges without their knowledge or approval. Such conduct strikes at the core objectives of the Code, particularly those relating to transparency, consumer protection, and fair acquisition practices, and is therefore treated as an aggravating factor for the purposes of sanction. In addition, the Member did not provide refunds to affected consumers which further exacerbated the impact of the contravention.

20. The Member is hereby sanctioned as follows:

- 20.1. WASPA must inform all networks, including MTN, not to process any subscription requests emanating from the Member's service for a period of three (3) months from the date of publication of this Adjudication.
- 20.2. All current subscribers to the Member's service as a result of the auto-subscription must be unsubscribed with immediate effect.
- 20.3. The Member's service must be terminated with immediate effect and may only be reactivated after the expiry of the three (3) month period, and only once the Member has demonstrated to the satisfaction of the WASPA that the identified breaches of the Code have been fully remedied.
- 20.4. Prior to any reactivation of the Member's service, the Member is directed to provide WASPA with written confirmation of the fraud-prevention and compliance measures implemented to prevent future unauthorised auto-subscriptions.
- 20.5. The Member is directed to reimburse all auto-subscription fees charged to consumers who were subscribed to its service as a result of the non-compliant acquisition flow.
- 20.6. The Member is directed to provide WASPA, within ten (10) days of the publication of this Adjudication, with written confirmation, together with supporting evidence, of all unsubscriptions that have been effected.

21. Furthermore, the following fines are imposed on the Member:

- 21.1. R10 000.00 for the breach of clause 4.2 of the Code;
 - 21.2. R10 000.00 for the breach of clause 4.11 of the Code;
 - 21.3. R10 000.00 for the breach of clause 5.5 of the Code;
 - 21.4. R10 000.00 for the breach of clause 12.1 read with clause 8.9 of the Code;
 - 21.5. R10 000.00 for the breach of clause 15.8B of the Code;
 - 21.6. R10 000.00 for the breach of clause 15.9 of the Code; and
 - 21.7. R10 000.00 for the breach of clauses 15.10 and 23A.5 of the Code.
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Matters referred back to WASPA

- 22. Not applicable.
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